THE HON'BLE SMT. JUSTICE T. MEENA KUMARI
AND
THE HON'BLE SRI JUSTICE G. CHANDRAIAH

WRIT PETITION No.21273 of 2007

Date 8-10-2007

Between:
Y.J. SETEVENSON

.....

PETITIONER.
AND

The Collector & District Magistrate,
Nellore, Nellore District and others.

.....RESPONDENTS

THE HON'BLE SMT. JUSTICE T. MEENA KUMARI
AND
THE HON'BLE SRI JUSTICE G. CHANDRAIAH

WRIT PETITION No.21273 of 2007

ORDER: (per Smt. T. Meena Kumari,J)

The petitioner filed the present writ petition seeking a Writ of Mandamus declaring the proceedings in Rc. No. A1/16/83, dated 30.11.2001 and the proceedings in Rc. No. A1/16/83, dated 15.2.2002 issued by the 1st respondent as arbitrary, illegal and unconstitutional and violative of the orders of the Hon'ble Tribunal in O.A. No. 4391/92, dated 2.5.2000 and to set aside the same including the orders of the Tribunal in O.A. No.11221/2002, dated 2.3.2005. He also sought for a consequential direction to the respondents to impose any minor penalty or any other penalty other than removal, dismissal or compulsory retirement with all consequential benefits including arrears of salary etc., and pass such other orders.

The brief facts of the case are that petitioner was removed from service by proceedings dated 3.4.1992. Aggrieved by the same, he filed O.A. No. 4391 of 1992 before the Tribunal. The said O.A. was disposed of by the Tribunal on 2.5.2000 holding that the punishment imposed against the petitioner is disproportionate to the charges levelled against him and that he is not involved in any grave charges such as misappropriation or causing any financial loss to the State. Aggrieved by the said order, the department filed Writ Petition No. 7549 of 2001 before this Court. This court, through order dated 25.4.2001, dismissed the said writ petition. Thereafter, the respondents passed an order of compulsory retirement

against the petitioner. Assailing the same, the petitioner filed O.A. No. 11221 of 2002 before the Tribunal. The Tribunal, through the impugned order dismissed the O.A. Aggrieved, the petitioner filed the present writ petition.

Learned counsel for the petitioner would contend that the Tribunal without considering the contentions raised by the petitioner, dismissed the O.A. erroneously. He further submits that the punishment imposed is disproportionate to the charges levelled against him. He, therefore, prayed that the writ petition be allowed and the impugned order be set aside.

Learned Government Pleader for Services-I, on the other hand, supported the impugned order and prayed that the writ petition be dismissed.

Before the Tribunal, the respondents have filed counter affidavit stating that pursuant to the order passed by the Tribunal in O.A. No. 4391 of 1992, dated 2.5.2000, they have examined the matter in detail and modified the order of punishment of removal from service to that of compulsory retirement and further the period spent under the suspension has been treated as substantive punishment without pay and allowances.

The petitioner was removed from service for the alleged mis-conduct. Aggrieved, the petitioner filed O.A. No. 4391 of 1992 on an earlier occasion before the Tribunal and the same was disposed of by the tribunal holding that the punishment imposed is disproportionate to the charges levelled against him and accordingly it remanded the matter back to the authorities. Thereafter, the respondents on reexamination of the case of the petitioner, have modified the punishment of removal to compulsory retirement. Aggrieved, the petitioner again preferred the present O.A. impugned in this writ petition before the Tribunal.

Admittedly, the Tribunal on an earlier occasion, having found that the petitioner was not involved in any grave charges nor he had misappropriated any amount and caused loss to the State exchequer, remanded the matter to the authorities for fresh consideration and for

reviewing the quantum of punishment. The respondents, thereafter, having re-examined the case of the petitioner, modified the punishment of removal to that of compulsory retirement. The respondents have already inflicted a lesser punishment and therefore, no further lenience can be shown in the matter. The Tribunal, therefore, taking all these facts into consideration rightly dismissed the O.A. through the impugned order. In the circumstances, we do not find any reason to interfere with the said order of the Tribunal.

The writ petition is accordingly dismissed. No costs.

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T. MEENA KUMARI,J

DATE: 8th October, 2007

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G. CHANDRAIAH,J

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